

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 106

Introduced By: Engel, 17;
Read first time: January 5, 2007
Committee: Revenue

A BILL

1 FOR AN ACT relating to the Tobacco Products Tax Act; to amend
2 sections 77-4001, 77-4002, 77-4007, 77-4008, 77-4014, and
3 77-4017, Reissue Revised Statutes of Nebraska; to change the
4 tax on snuff; to define a term; to harmonize provisions; to
5 provide an operative date; and to repeal the original
6 sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-4001 Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-4001. Sections 77-4001 to 77-4025 and section 3 of this
4 act shall be known and may be cited as the Tobacco Products Tax Act

5 Sec. 2. Section 77-4002 Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-4002. For purposes of the Tobacco Products Tax Act,
8 unless the context otherwise requires, the definitions found in
9 sections 77-4003 to 77-4007 and section 3 of this act shall be used.

10 Sec. 3. Snuff means any finely cut, ground, or powdered
11 tobacco that is not intended to be smoked.

12 Sec. 4. Section 77-4007 Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 77-4007. Tobacco products shall mean (1) cigars, (2)
15 cheroots, (3) stogies, (4) periques, (5) granulated, plug cut, crimp
16 cut, ready rubbed, and other smoking tobacco, (6) snuff, (7) ~~snuff~~
17 ~~flour~~, ~~(8)~~ cavendish, ~~(9)~~ (8) plug and twist tobacco, ~~(10)~~ ~~fine~~
18 ~~cut~~ ~~and~~ (9) other chewing tobacco, ~~(11)~~ (10) shorts, refuse
19 scraps, clippings, cuttings, and sweepings of tobacco, and ~~(12)~~
20 (11) other kinds and forms of tobacco, prepared in such manner as
21 to be suitable for chewing or smoking in a pipe or otherwise or both
22 for chewing and smoking, except that tobacco products shall not mean
23 cigarettes as defined in section 77-2601.

24 Sec. 5. Section 77-4008 Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 77-4008. (1) A tax is hereby imposed upon the first owner of
27 tobacco products to be sold in this state. The tax on tobacco

1 products shall be as follows:

2 (a) On snuff, the tax shall be fifty cents per ounce and a
3 proportionate tax at the like rate on all fractional parts of an
4 ounce. Such tax shall be computed based on the net weight as listed
5 by the manufacturer. Any product listed by the manufacturer as having
6 a net weight of less than one ounce shall be taxed as if the product
7 has a net weight of one ounce; and

8 (b) On tobacco products other than snuff, the tax shall be
9 twenty percent of (a) (i) the purchase price of such tobacco
10 products paid by the first owner or (b) (ii) the price at which a
11 first owner who made, manufactured, or fabricated the tobacco product
12 sells the items to others. Such tax

13 The tax on tobacco products shall be in addition to all
14 other taxes.

15 (2) Whenever any person who is licensed under section
16 77-4009 purchases tobacco products from another person licensed under
17 section 77-4009, the seller shall be liable for the payment of the
18 tax.

19 ~~(3) On and after October 1, 2002, and continuing until~~
20 ~~October 1, 2004, the Tax Commissioner shall remit the amount collected~~
21 ~~pursuant to this section to the State Treasurer, and the State~~
22 ~~Treasurer shall credit three fourths of such amount to the General~~
23 ~~Fund and one fourth of such amount to the Cash Reserve Fund. On and~~
24 ~~after October 1, 2004, amounts collected~~ Amounts collected pursuant
25 to this section shall be used and distributed pursuant to section
26 77-4025.

27 Sec. 6. Section 77-4014 Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 77-4014. (1) On or before the tenth day of each calendar
3 month ~~commencing on or after January 1, 1988,~~ every person licensed
4 under subsection (1) of section 77-4009 shall file a return with the
5 Tax Commissioner showing either the quantity and the price of each
6 tobacco product brought or caused to be brought into this state for
7 sale or the quantity and the price of each tobacco product made,
8 manufactured, or fabricated in this state for sale in this state,
9 whichever is applicable, during the preceding calendar month. For
10 snuff, such return shall also include the net weight as listed by the
11 manufacturer.

12 (2) Every person licensed pursuant to subsection (2) of
13 section 77-4009 shall, in the manner described in subsection (1) of
14 this section, file a return showing in detail the different kinds,
15 quantity, and wholesale sales price of each tobacco product shipped or
16 transported to retailers in this state to be sold by such retailers
17 during the preceding calendar month. For snuff, such return shall
18 also include the net weight as listed by the manufacturer.

19 (3) Returns shall be made upon forms furnished and
20 prescribed by the Tax Commissioner. Each return shall be accompanied
21 by a remittance for the full tax liability shown, less an amount of
22 such liability equal to any amount allowed a payer of the sales and
23 use tax pursuant to subdivision (1)(d) of section 77-2708 as
24 compensation to reimburse the licensee for his or her expenses
25 incurred in complying with the Tobacco Products Tax Act.

26 Sec. 7. Section 77-4017 Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 77-4017. (1) Every licensee shall keep complete and accurate
2 records for all places of business, including itemized invoices of
3 tobacco products (a) held, purchased, manufactured, or brought in or
4 caused to be brought into this state or (b) for a licensee located
5 outside of this state, shipped or transported to retailers in this
6 state. For snuff, such return shall also include the net weight as
7 listed by the manufacturer.

8 (2) All books, records, and other papers and documents
9 required to be kept by this section shall be preserved for a period of
10 at least three years after the due date of the tax imposed by the
11 Tobacco Products Tax Act unless the Tax Commissioner, in writing,
12 authorizes their destruction or disposal at an earlier date.

13 (3) At any time during usual business hours, duly authorized
14 agents or employees of the Tax Commissioner may enter any place of
15 business of a licensee and inspect the premises, the records required
16 to be kept pursuant to this section, and the tobacco products
17 contained in such place of business for purposes of determining
18 whether or not such licensee is in full compliance with the act.
19 Refusal to permit such inspection by a duly authorized agent or
20 employee of the Tax Commissioner shall be grounds for revocation,
21 cancellation, or suspension of the license.

22 Sec. 8. This act becomes operative on October 1, 2007.

23 Sec. 9. Original sections 77-4001, 77-4002, 77-4007,
24 77-4008, 77-4014, and 77-4017, Reissue Revised Statutes of Nebraska,
25 are repealed.